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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,643	08/30/2001	Louis Benoit	P21366	7042

7055 7590 11/18/2002

GREENBLUM & BERNSTEIN, P.L.C.  
1941 ROLAND CLARKE PLACE  
RESTON, VA 20191

EXAMINER

PHAN, HAU VAN

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 11/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/941,643

Applicant(s)

BENOIT, LOUIS

Examiner

Hau V Phan

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 and 20-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6, 13-18 and 20-27 is/are allowed.
- 6) ☒ Claim(s) 7-12 and 28-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/377,841.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Acknowledgment*

1. The amendment filed on 10/3/2002 has been considered.
2. The terminal disclaimer filed on 10/7/2002 has been considered.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 7-12 and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myers et al. (5,735,536) in view of MacDonnell (1,977,587).**

Myers et al. in figure 2 discloses a chassis (10) for an in-line skate. The chassis comprises at least one substantially horizontal foot bearing portion (15), one longitudinally extending lateral flange (26) extending downwardly from the foot-bearing portion. Myers et al. also discloses one longitudinally extending medial flange (25) extending downwardly from the foot-bearing portion. Each of the lateral flange and the medial flange has a top portion and a bottom portion. Wherein both the top portions of the lateral flange and the medial flange being transversely spaced apart and both the bottom portions of the lateral flange and the medial flange being adapted to have attached therebetween at least one wheel. Myers et al. further discloses a stiffening rib

(32), which is made by pressing. Myers et al. fails to show the intermediate portion substantially non-coplanar with the bottom portion.

MacDonnell in figure 4 discloses a chassis having an intermediate portion (10) having been made by pressing, substantially non-coplanar with the bottom portion. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the chassis of Myers et al. with the improvement of the intermediate portion having been made by pressing, substantially non-coplanar with the bottom portion as taught by MacDonnell in order to have attractive appearance peculiar to the chassis.

Regarding claims 28-30, Myers et al. discloses the top portion of each of the lateral and medial flanges, which is adjacent to the foot-bearing portion. Myers et al. also discloses a plurality of holes (31, 35) for receiving axles of wheels adapted to be positioned between the lateral and medial flanges. Wherein bosses do not surround the holes and spaced from the holes. Myers et al. further discloses a plurality of in-line wheels mounted between the lateral and medial flanges.

#### ***Allowable Subject Matter***

5. Claims 1-6, 13-18, 20-27 are allowed.

#### ***Response to Arguments***

6. Applicant's arguments filed 10/3/2002 have been fully considered but they are not persuasive. Regarding claims 7-12 and 28-30, in response to applicant's arguments

that the in-line skate of Myers et al. has a chassis, which is extruded, a longitudinal curved rib would not be possible and the combination of Myers et al. in view of MacDonnell would change the principal of the prior art. The examiner agrees, but in claims 7-12 and 28-30 a longitudinal curved rib is not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V Phan whose telephone number is 703-308-2084. The examiner can normally be reached on 7:30AM-4:00PM.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson can be reached on 703-308-0885. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

HP

November 14, 2002

  
BRIAN L. JOHNSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

11/14/02